



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2022-0892; FRL-10928-01-R4]

Air Plan Approval; Florida; Revision of Excess Emissions Provisions and Emission Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve State Implementation Plan (SIP) revisions submitted by the State of Florida on November 22, 2016, and supplemented on September 30, 2022, through the Florida Department of Environmental Protection (FDEP). The November 22, 2016, SIP revision is in response to EPA's SIP call published on June 12, 2015, concerning excess emissions during startup, shutdown, and malfunction (SSM) events. The September 30, 2022, supplemental SIP revision addresses additional SSM-related rule amendments identified by the State and the addition of source specific sulfur dioxide (SO₂) and nitrogen oxide (NO_x) emission limits. EPA proposes to find that Florida's SIP revisions provided November 22, 2016, and September 30, 2022, correct the deficiencies identified in EPA's 2015 SIP call, and thus is proposing to approve these SIP revisions.

DATES: Comments must be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R04-OAR-2022-0892 at [regulations.gov](https://www.regulations.gov). Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is

restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e., on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

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I. Background

On February 22, 2013, EPA issued a notice of proposed rulemaking outlining EPA's policy at the time with respect to SIP provisions related to periods of SSM. EPA analyzed specific SSM SIP provisions and explained how each one either did or did not comply with the Clean Air Act (CAA or Act) with regards to excess emission events. For each SIP provision that EPA determined to be inconsistent with the CAA, EPA proposed to find that the existing SIP provision was substantially inadequate to meet CAA requirements and thus proposed to issue a SIP call under CAA section 110(k)(5). On September 17, 2014, EPA issued a document supplementing and revising what the Agency had previously proposed on February 22, 2013, in light of a United States Court of Appeals for the District of Columbia Circuit decision that determined the CAA precludes authority of EPA to create affirmative defense provisions applicable to private civil suits. EPA outlined its updated policy that affirmative defense SIP provisions are not consistent with CAA requirements. EPA proposed in the supplemental proposal document to apply its revised interpretation of the CAA to specific affirmative defense SIP provisions and proposed SIP calls for those provisions where appropriate. *See* 79 FR 55920 (September 17, 2014).

On June 12, 2015, pursuant to CAA section 110(k)(5), EPA finalized "State Implementation Plans: Response to Petition for Rulemaking; Restatement and Update of EPA's SSM Policy Applicable to SIPs; Findings of Substantial Inadequacy; and SIP Calls to Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown and Malfunction," hereinafter referred to as the "2015 SSM SIP Action." *See* 80 FR 33840 (June 12, 2015). The 2015 SSM SIP Action clarified, restated, and updated EPA's interpretation that SSM exemption and affirmative defense SIP provisions are inconsistent with CAA requirements. The 2015 SSM SIP Action found that certain SIP provisions in 36 states, including Florida, were substantially inadequate to meet CAA requirements and issued a SIP call to those states to

submit SIP revisions to address the inadequacies. EPA established an 18-month deadline by which the affected states had to submit such SIP revisions. States were required to submit corrective revisions to their SIPs in response to the SIP calls by November 22, 2016.

EPA issued a memorandum in October 2020 (2020 Memorandum), which stated that certain provisions governing SSM periods in SIPs could be viewed as consistent with CAA requirements.¹ Importantly, the 2020 Memorandum stated that it “did not alter in any way the determinations made in the 2015 SSM SIP Action that identified specific state SIP provisions that were substantially inadequate to meet the requirements of the Act.” Accordingly, the 2020 Memorandum had no direct impact on the SIP call issued to Florida in 2015. The 2020 Memorandum did, however, indicate EPA’s intent at the time to review SIP calls that were issued in the 2015 SSM SIP Action to determine whether EPA should maintain, modify, or withdraw particular SIP calls through future agency actions.

On September 30, 2021, EPA’s Deputy Administrator withdrew the 2020 Memorandum and announced EPA’s return to the policy articulated in the 2015 SSM SIP Action (2021 Memorandum).² As articulated in the 2021 Memorandum, SIP provisions that contain exemptions or affirmative defense provisions are not consistent with CAA requirements and, therefore, generally are not approvable if contained in a SIP submission. This policy approach is intended to ensure that all communities and populations, including minority, low-income and indigenous populations overburdened by air pollution, receive the full health and environmental protections provided by the CAA.³ The 2021 Memorandum also retracted the prior statement from the 2020 Memorandum regarding EPA’s plans to review and potentially modify or withdraw particular SIP calls. That statement no longer reflects EPA’s intent. EPA intends to implement the principles laid out in the 2015 SSM SIP Action as the Agency acts on SIP

¹ October 9, 2020, memorandum “Inclusion of Provisions Governing Periods of Startup, Shutdown and Malfunctions in State Implementation Plans.”

² September 30, 2021, memorandum “Withdrawal of the October 9, 2020, Memorandum Addressing Startup, Shutdown, and Malfunctions in State Implementation Plans and Implementation of the Prior Policy.”

³ See 80 FR 33839, 33985.

submissions, including the November 22, 2016, SIP submittal provided by FDEP in response to the 2015 SIP call.

In the 2015 SSM SIP Action, EPA determined that Florida Administrative Code Rules (hereinafter referred to as “Rules”) 62-210.700(1), 62-210.700(2), 62-210.700(3), and 62-210.700(4) are substantially inadequate to meet CAA requirements. *See* 80 FR 33839, 33962 (June 12, 2015). In the existing Florida SIP, Rule 62-210.700(1) provides that excess emissions resulting from SSM modes of operation for any emissions unit “shall be permitted” if the best operational practices to minimize those emissions is employed and the duration of the excess emissions does not exceed two hours in a 24-hour period. Rules 62-210.700(2) and .700(3) provide specifically that excess emissions from fossil fuel steam generators resulting from startup or shutdown or from boiler cleaning (soot blowing) and load change, respectively, “shall be permitted” if the best operational practices to minimize the emissions and duration of excess emissions are employed. Finally, SIP-called Rule 62-210.700(4) provides that excess emissions which are caused entirely or in part by “poor maintenance, poor operation, or any other equipment or process failure which may reasonably be prevented” during SSM “shall be prohibited.” The rationale underlying EPA’s determination that Rules 62-210.700(1), (2), (3) and (4) were substantially inadequate to meet CAA requirements, and therefore should be included in the 2015 SSM SIP Action to remedy the deficiencies, is detailed in the 2015 SSM SIP Action and accompanying proposals.

On November 22, 2016, FDEP submitted a revision to the Florida SIP (hereinafter referred to as Florida’s “Excess Emissions Rule SIP Revision”) in response to the 2015 SSM SIP Action. In that revision, FDEP requests EPA approval of the following changes to the Florida SIP: 1) removal of Rule 62-210.700(4) with the addition of equivalent language to Rules 62-210.700(1) and (2); 2) amendment of Rule 62-210.700(3) to amend the particulate matter (PM) limits applicable during boiler cleaning (soot blowing) and load changes by removing the statement that excess emissions during these periods “shall be permitted,” removing the

exemption for pollutants other than PM and visible emissions, and removing a specific allowance for visible emissions which exceed 60 percent opacity for up to four six-minute periods during the 3-hour period of excess emissions allowed for soot blowing or load change; 3) addition of Rule 62-210.700(6) which states that Rules 62-210.700(1) and (2) shall not apply after May 22, 2018, to either category-specific or unit-specific limits that have been incorporated into Florida's SIP; and 4) addition of Rule 62-210.700(7), which states that after the effective date of the rule change (October 23, 2016), Rules 62-210.700(1) and (2) shall not apply to new permit-specific emission limits established pursuant to Florida's Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NNSR) regulations (Rules 62-212.400 and 62-210.500).

On September 30, 2022, FDEP submitted a supplemental revision (hereinafter referred to as Florida's "Supplemental SSM SIP Revision") to the State's November 22, 2016, Excess Emissions Rule SIP Revision. In the Supplemental SSM SIP Revision, FDEP includes "alternative SIP emission limits for those SIP emission limits that [FL] DEP identified as problematic" if applied continuously and several changes to language throughout Chapter 62-296. The State requests EPA approval of the following changes: 1) amendment of existing Rule 62-296.405, "Fossil Fuel Steam Generators with More Than 250 Million Btu Per Hour Heat Input" and Rule 62-296.570, "Reasonably Available Control Technology (RACT)–Requirements for Major VOC- and NO_x-Emitting Facilities" to clarify how emissions are calculated, including during periods of startup, shutdown, and malfunction; 2) addition of emissions-unit-specific SO₂ and NO_x emission limits for certain sulfuric acid plants (SAPs) and nitric acid plants (NAPs) in Florida; 3) removal of SO₂ emission limits in Rule 62-296.402, "Sulfuric Acid Plants"; and 4) removal of NO_x emission limits in Rule 62-296.408, "Nitric Acid Plants."

II. Analysis of the Florida Submittals

A. EPA's Analysis of Florida's Excess Emissions Rule SIP Revision Submitted November 22, 2016

The SIP-called provisions of Rules 62-210.700(1), (2), and (3) provide that excess emissions “shall be permitted” under certain circumstances and thus provide that such excess emissions will not be violations, which is inconsistent with CAA sections 110(a)(2)(A), 110(a)(2)(C), and 302(k). The SIP-called provision of Rule 62-210.700(4) provides that excess emissions caused entirely or in part by poor maintenance, poor operation, or any other equipment or process failure that may reasonably be prevented during periods of SSM are prohibited. As EPA has previously noted, such a provision “does not negate the underlying problem of providing exemptions for the excess emissions in the first instance.” *See* 78 FR 12459, 12503 (February 22, 2013).

Florida's Excess Emissions Rule SIP Revision makes changes to Rule 62-210.700 to address the specific deficiencies identified in the 2015 SSM SIP Action. Florida has added new Rule 62-210.700(6),⁴ which provides that paragraphs .700(1) and .700(2) shall no longer apply for purposes of the SIP after May 22, 2018. Specifically, Rule 62-210.700(6) provides that these paragraphs will not apply to limits in Chapter 62-296 that are incorporated or will be incorporated into the SIP, nor will they apply to unit-specific emission limits which have been or will be incorporated into the SIP. This covers all SIP emission limits, since FDEP establishes its applicable limits in Chapter 62-296 and otherwise would submit to EPA unit-specific emission limits via source-specific SIP revisions for incorporation into the SIP at 40 CFR 52.520(d). Because May 22, 2018, has passed, EPA's proposed approval of Florida's Excess Emissions Rule SIP Revision, if finalized, would effectively remove Rules 62-210.700(1) and .700(2) from the SIP. The only changes made to Rule 62-210.700(1) and .700(2) are to remove the word “operational” in describing the requirement that sources adhere to best practices during periods

⁴ The removal of 62-210.700(4) causes the renumbering of existing paragraphs 62-210.700(5) and .700(6) to .700(4) and .700(5), respectively.

of SSM and the addition of the prohibitory provision from existing Rule 62-210.700(4) (which is being deleted, as discussed below). EPA proposes to find that the addition of new Rule 62-210.700(6) addresses the deficiencies in .700(1) and .700(2) that EPA identified in the 2015 SSM SIP Action.

The SIP-called version of Rule 62-210.700(3) allows excess emissions “from existing fossil fuel steam generators resulting from boiler cleaning (soot blowing) and load change.” As explained in the 2015 SSM SIP Action, such exemptions are inconsistent with CAA requirements. The changes to Rule 62-210.700(3) transmitted in Florida’s Excess Emissions Rule SIP Revision include: replacement of the term “Excess” with “Visible”; deletion of the term “shall be permitted”; deletion of the exemption for visible emissions above 60 percent opacity during up to 24 total minutes over a 3-hour period for periods of soot blowing or load change; linguistic changes to the opacity and PM limits applicable during “boiler cleaning (soot blowing) and load change”; and exclusion of startup and shutdown from, plus non-substantive changes to, the definition of load change. The effect of deleting the statement that excess emissions “shall be permitted” during soot blowing or load change is the removal of the exemption for such excess emissions. So, rather than permitting excess emissions during such periods and specifically allowing for visible emissions above 60 percent opacity during up to 24 total minutes over a 3-hour period for periods of soot blowing or load change, the revised rule only retains the existing requirement that opacity during these periods may not exceed 60 percent opacity for the 6-minute averaging time for up to 3 hours in any 24-hour period. Additionally, the corresponding PM limit is also retained. Thus, the revised version of Rule 62-210.700(3) no longer allows for exempt periods during which no standard applies to the affected facilities and makes it more stringent than the current SIP-approved version of the rule.

As noted above, Rule 62-210.700(4) is removed, but the same language from that provision is added at Rules .700(1) and .700(2). This is not a specific change to the treatment of excess emissions under these provisions but given the addition of Rule 62-210.700(6), covered in

more detail below, these provisions do not apply after May 22, 2018, and thus will have no effect in the SIP.

Rule 62-210.700(6) is a new provision which terminates the applicability of Rules 62-210.700(1) and .700(2) after May 22, 2018, for emission limits or unit-specific emission limits that have been incorporated into Florida's SIP. According to Florida's Supplemental SSM SIP Revision, the purpose of this provision was to provide "time to develop and submit alternative SIP emission limits for those limits that would be problematic if they applied at all times."

Rule 62-210.700(7) is a new provision which terminates the applicability of paragraphs 62-210.700(1) and .700(2) on October 23, 2016, for new permit-specific emission limits established pursuant to Florida's PSD and NNSR regulations (Rules 62-212.400 and 62-210.500). With the addition of this rule, Florida establishes that emission limits incorporated into Florida's permits via the State's SIP-approved major new source review program apply at all times.

EPA proposes to find that with the addition of paragraph 62-210.700(6) and the removal of other exemptions for transient modes of operation in 62-210.700(3), emission limits incorporated into Florida's SIP apply at all times, including periods of SSM. Moreover, EPA is proposing to find that the addition of 62-210.700(7) ensures that emission limits incorporated into Florida construction permits will not allow excess emissions during periods of SSM. Therefore, based on Florida's changes to Rule 62-210.700 and the State's request to incorporate the revised language in the Florida SIP, EPA proposes to find that Florida's Excess Emissions Rule SIP Revision is consistent with CAA requirements and adequately addresses the specific deficiencies that EPA identified in the 2015 SSM SIP Action with respect to Rule 62-210.700 in the Florida SIP.

B. EPA's Analysis of Florida's Supplemental SSM SIP Revision Submitted September 30, 2022

Florida's Supplemental SSM SIP Revision requests that EPA approve multiple changes to Florida's SIP as discussed in the following sections. The changes include SSM-related amendments to Rule 62-296.402, "Sulfuric Acid Plants," Rule 62-296.405, "Fossil Fuel Steam Generators with More Than 250 Million Btu Per Hour Heat Input," Rule 62-296.408, "Nitric Acid Plants," and Rule 62-296.570, "Reasonably Available Control Technology (RACT) – Requirements for Major VOC- and NO_x-Emitting Facilities," and the addition of emissions-unit-specific SO₂ and NO_x emission limits for certain SAPs and NAPs located within the State of Florida.

1. Rule Section 62-296.402, Sulfuric Acid Plants (SAPs)

In the Supplemental SSM SIP Revision, FDEP proposes several amendments to Rule 62-296.402, "Sulfuric Acid Plants." Specifically, FDEP proposes deletion of the production-based SO₂ emission limits in renumbered Rules 62-296.402(2)(a)2., 62-296.402(2)(b)2., and 62-296.402(3)(b) from the SIP. Those production-based SO₂ emission limits were written in units of pounds per ton of 100 percent acid produced (pounds per ton (lbs/ton)) and, when adopted decades ago into Florida's first SIP, were not intended to be applicable during periods of SSM because 1) the methodology to calculate compliance with a rolling three-hour production-based limit is skewed by the lack of production during hours of startup and shutdown, and 2) the corresponding New Source Performance Standard (NSPS) at 40 CFR part 60, subpart H, on which the Florida emission limit for new units is based, exempted periods of SSM via performance testing requirements in subpart A to part 60 in the original promulgation of part 60 and as subsequently clarified.⁵

The SIP-called version of Rule 62-210.700 allows excess emissions during periods of SSM. Eleven SAPs that are otherwise subject to Rule 62-296.402 are already subject to SIP-approved pound-per-hour SO₂ emission limits which apply at all times, including during SSM,

⁵ See 36 FR 24876 (December 23, 1971), 42 FR 57125 (November 1, 1977).

imposed to attain and maintain the 2010 SO₂ NAAQS.⁶ To replace the deleted production-based SO₂ emission limits, FDEP is proposing to incorporate new SO₂ emission limits in units of pounds per hour (lbs/hr) based on a longer-term averaging period (specifically, either 6-hour or 24-hour averages, as opposed to the 3-hour average limit in Rule 62-296.402) for the remaining SAPs in Florida. The remaining SAPs are Emissions Units 066 and 067 at the White Springs Agricultural Chemicals, Inc., Suwannee River/Swift Creek Complex (Nutrien White Springs); Emissions Units 004 and 005 at the Mosaic Fertilizer, South Pierce Facility (Mosaic South Pierce); and Emissions Unit 004 at the TECO Polk Power Station (TECO-Polk).

The proposed SO₂ emission limits for these facilities apply at all times, including periods of SSM, and are at least as stringent as the current SO₂ limits in Florida's SIP in Rule 62-296.402. Construction permits containing the proposed SO₂ emission limits for these emissions units have been issued by FDEP, and relevant portions of those permits are included in the Supplemental SSM SIP Revision for incorporation into the SIP. Sections II.B.5.iii-v of this notice of proposed rulemaking (NPRM) provide a detailed discussion of the emissions-unit-specific SO₂ emission limits, the methodology used for developing the new emission limits, and the technical demonstration showing that these limits are at least as stringent as the existing emission limits at Rule 62-296.402 proposed for deletion.

Additionally, FDEP has renumbered existing provisions in Rule 62-296.402 with the addition of paragraph .402(1). This new paragraph provides that the SO₂ emission limits do not apply to SAPs which are subject to the applicable NSPS at 40 CFR part 60, subpart H. Instead of revising the rule applicability for SIP purposes with new paragraph .402(1), FDEP has elected to remove the SO₂ emission limits directly from the SIP and replace them with new, source-specific emission limits. Thus, FDEP has not requested that EPA incorporate Rule 62-296.402(1), 62-296.402(2)(a)2., 62-296.402(2)(b)2., or 62-296.402(3)(b), as renumbered, into the SIP.

⁶ See 82 FR 30749 (July 3, 2017), 85 FR 9666 (February 20, 2020).

Finally, FDEP is revising Rule 62-296.402(6), as renumbered from .402(5), to change the excess emissions reporting requirement from quarterly to semi-annual. This revision to the frequency of reporting is consistent with EPA regulations at 40 CFR part 51, appendix P, as revised August 14, 2020. *See* 85 FR 49596. Paragraph .402(5), as renumbered from .402(4), requires that facilities producing more than 300 tons per day (tpd) of sulfuric acid must install and operate continuous emissions monitoring systems (CEMS). Paragraph .402(6), as renumbered from .402(5), requires the SAPs which install and operate CEMS to make semi-annual reports of excess emissions, including the nature and cause of the excess emissions. In the original promulgation of Appendix P to 40 CFR part 51⁷ and the promulgation of early revisions to the NSPS the same day,⁸ EPA required quarterly reporting of such excess emissions. When FDEP promulgated requirements for SAPs at Rule 62-296.402, it regulated sources subject to both Appendix P of part 51 and the NSPS, and the quarterly reporting requirement aligned with federal minimum requirements. Since that time, EPA has revised both the NSPS and Appendix P to allow for less frequent (namely, semi-annual) reporting of excess emissions.⁹

¹⁰ Additionally, EPA's title V major source operating permit program regulations, promulgated in 1992, require semi-annual reporting.¹¹

Section 110(l) of the CAA provides that EPA shall not approve a revision to a plan if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the CAA. The proposed revision to the frequency of the excess emissions reporting requirement in the Florida SIP for Rule 62-296.402 will not override any more stringent reporting requirements,¹² will not cause any changes in allowable pollutant emissions, and will not otherwise interfere with the State's ability to attain

⁷ *See* 40 FR 46240 (October 6, 1975).

⁸ *See* 40 FR 46250 (October 6, 1975).

⁹ *See* 61 FR 47840 (September 11, 1996).

¹⁰ *See* 85 FR 49596 (August 14, 2020).

¹¹ *See* 57 FR 32250 (July 21, 1992) and 40 CFR 70.6(a)(3)(iii)(A).

¹² To the extent any sources are required by other CAA requirements to submit continuous opacity monitoring reports more frequently, those requirements will continue to apply and will not be impacted by these proposed revisions.

and maintain the national ambient air quality standards (NAAQS) or interfere with any other applicable CAA requirement. Furthermore, this change makes Florida's reporting requirements consistent with the federal requirements in Appendix P to part 51, the NSPS, and other major source reporting required for title V major sources.

EPA is also proposing to approve the portion of Florida's Supplemental SSM SIP Revision that removes the existing SO₂ limit from Rule 62-296.402 and incorporate the source-specific permit limits into the SIP because the source-specific emission limits submitted to EPA, or previously approved by EPA for some sources, are continuous and at least as stringent as the existing SIP-approved limit in this rule. See sections II.B.5.i, iii–vi of this NPRM for a detailed analysis of EPA's proposal to remove the existing SO₂ limit from Rule 62-296.402.

2. Rule 62-296.405, Existing Fossil Fuel Steam Generators with Greater than or Equal to 250 Million Btu Per Hour Heat Input

Florida's Supplemental SSM SIP Revision transmits several changes to Rule 62-296.405. First, the title is revised from "Fossil Fuel Steam Generators with More Than 250 Million Btu Per Hour Heat Input" to "Existing Fossil Fuel Steam Generators with Greater than or Equal to 250 Million Btu Per Hour Heat Input." The revised title clarifies that this section is only applicable to existing units with a heat input rate equal to or greater than 250 million Btu per hour. Next, a similar clarifying change is made to add a new paragraph 62-296.405(1), which specifies applicability. This new paragraph defines an "existing" fossil fuel steam generator as one in existence, in operation, under construction, or which had received a permit to begin construction prior to January 18, 1972. EPA is proposing to find that this provision aligns with the definition of "existing emission unit" already SIP-approved at Rule 62-210.200 and clarifies that only existing emission units are subject to Rule 62-296.405. The existing SIP-approved rule specifies SIP emission limits for existing emission units and contains a paragraph addressing new emissions units that simply refers to applicable NSPS. A SIP revision submitted on April 1, 2022, seeks to remove the paragraph covering "new emission units" which would allow for the

changes described above. EPA is proposing to act on the April 1, 2022, SIP revision in a separate rulemaking. EPA will not finalize the changes described above unless EPA finalizes the removal of the paragraph covering “new emission units.”

Next, the Supplemental SSM SIP Revision renumbers Rule 62-296.405(1)(a) to Rule 62-296.405(2), and renumbers Rule 62-296.405(1)(b) to Rule 62-296.405(3). Paragraph .405(3), as renumbered, is revised to require stack testing to demonstrate compliance unless a PM CEMS is used, specify the manner of demonstrating compliance when a PM CEMS is used, and add a definition for the term “operating day.” Under the existing SIP rule, the PM emission limit applicable to existing sources only requires compliance to be determined via “applicable compliance methods.” In the Supplemental SSM SIP Revision, FDEP notes that, pursuant to existing Rule 62-296.405(1)(e)2, the applicable compliance methods would be either stack testing or PM CEMS. Where PM CEMS are required, such as for sources subject to Appendix P of 40 CFR part 51 or subject to the NSPS, the definition of “operating day” utilized in this provision is consistent with the definition of “boiler operating day” defined in the NSPS at 40 CFR part 60, subpart D.¹³ FDEP specifies the averaging period applicable to the PM emission limit as a 30-operating day limit. Prior to this change, no averaging time was specified for this emission limit, and the SIP did not require compliance with the emission limit during periods of SSM. EPA is proposing to find that these changes clarify the existing emission limit, specify appropriate methods for determining compliance, and ensure that periods of non-compliance during periods of SSM can be evaluated, consistent with the removal of exemptions from applicable SIP emission limits in the Excess Emissions Rule SIP Revision.

Florida’s Supplemental SSM SIP Revision then renumbers Rule 62-296.405(1)(c) to Rule 62-296.405(4), renumbers provisions 62-296.405(1)(c)1 through (1)(c)2.c to 62-296.405(4)(a)

¹³ The definition is also consistent with: “boiler operating day” at 40 CFR part 60, subpart Da for units constructed, reconstructed, or modified after February 28, 2005; “steam generating unit operating day” at 40 CFR part 60, subpart Db; and “steam generating unit operating day” at 40 CFR part 60, subpart Dc.

through (4)(b)3,^{14, 15} adds language requiring demonstration of compliance by fuel sampling unless a SO₂ CEMS is used, and specifies the manner of demonstrating compliance when a SO₂ CEMS is used. Under the existing SIP rule, the SO₂ emission limits applicable to existing sources only require compliance to be determined via “applicable compliance methods.” In Florida’s Supplemental SSM SIP Revision, FDEP notes that the applicable compliance methods at existing Rule 62-296.405(1)(e)3 would be either fuel sampling or SO₂ CEMS. Where SO₂ CEMS are required, such as for sources subject to Appendix P of 40 CFR part 51 or subject to the NSPS, FDEP specifies the averaging period applicable to the SO₂ emission limit as a 24-hour block average limit. Prior to this change, no averaging time was specified for certain applicable emission limits, and the SIP did not require compliance with the emission limits during periods of SSM. EPA is proposing to find that these changes clarify the existing emission limits, specify appropriate methods for determining compliance, and ensure that instances of non-compliance during periods of SSM can be evaluated, consistent with the removal of exemptions from applicable SIP emission limits in the Excess Emissions Rule SIP Revision.

Florida’s Supplemental SSM SIP Revision also rennumbers Rule 62-296.405(1)(d) to Rule 62-296.405(5); rennumbers provisions 62-296.405(1)(d)1 through (1)(d)4 to 62-296.405(5)(a) through (5)(d), respectively; adds language requiring demonstration of compliance by stack testing unless a NO_x CEMS is used; and specifies the manner of demonstrating compliance when a NO_x CEMS is used.¹⁶ Under the existing SIP rule, the NO_x emission limits applicable to

¹⁴ On March 30, 2023, Florida provided a partial withdrawal and clarification letter related to the April 1, 2022, and September 30, 2022, SIP revisions. In this letter, FDEP withdraws the removal of requirements at 62-296.405(1)(c)1.g. and 62-296.405(1)(d)2. as transmitted in the April 1, 2022, SIP revision, from EPA consideration. The letter further clarifies that with the retention of these requirements for Florida Power and Light’s Manatee Power Plant in the April 1, 2022, SIP revision, the State is amending its request for what will be part of the SIP with the approval of the September 30, 2022, SIP revision. FDEP requests that EPA recodify these provisions along with other relevant renumbering to 62-296.405(3)(a)7. and 62-296.405(5)(b), respectively. This letter is in the docket for this proposed action.

¹⁵ The September 30, 2022, SIP revision shows that Rule 62-296.405(1)(c)2.d is proposed to be renumbered to 62-296.405(4)(b)4; however, EPA notes that the April 1, 2022, SIP revision proposes to remove this specific provision from the SIP and includes a noninterference demonstration pursuant to CAA section 110(l). As noted previously in this NPRM, EPA is addressing the April 1, 2022, changes in Rule 62-296.405 in a separate rulemaking. EPA believes the September 30, 2022, SIP revision does not intend to reintroduce this provision for approval into the SIP.

¹⁶ See *supra* note 14.

existing sources only requires compliance to be determined via “applicable compliance methods.” In this SIP revision, FDEP notes that the applicable compliance methods at existing Rule 62-296.405(1)(e)4. would be either stack testing or NO_x CEMS. Where NO_x CEMS are required, such as for sources subject to Appendix P of 40 CFR part 51 or subject to the NSPS, FDEP specifies the averaging period applicable to the NO_x emission limit as a 30-operating day average limit. Prior to this change, the applicable emission limits did not specify any averaging times, and the SIP did not require compliance with the emission limits during periods of SSM. EPA is proposing to find that these changes clarify the existing emission limits, specify appropriate methods for determining compliance, and ensure that periods of non-compliance during periods of SSM can be evaluated, consistent with the removal of exemptions from applicable SIP emission limits in the Excess Emissions Rule SIP revision.

Next, Florida’s Supplemental SSM SIP Revision renumbers Rule 62-296.405(1)(e) to Rule 62-296.405(6); renumbers Rules 62-296.405(1)(e)1 and 2 to Rules 62-296.405(6)(a) and (6)(b), respectively; adds language specifying that a PM CEMS may be used for demonstrating compliance with the PM limit in Rule 62-296.405(3) in lieu of EPA Methods 17, 5, 5B or 5F (i.e., in lieu of stack testing); and requires that any such PM CEMS must comply with EPA’s Performance Specification 11 of 40 CFR part 60, Appendix B, as adopted and incorporated by reference into Rule 62-204.800.¹⁷ The Supplemental SSM SIP Revision then renumbers Rules 62-296.405(1)(e)3 and (e)4 to Rules 62-296.405(6)(c) and (6)(d), respectively, and further amends Rule 62-296.405(6)(d) to exclusively require a NO_x CEMS for determining compliance, removing the references to stack testing for NO_x. This change means that the remaining existing emissions units subject to Rule 62-296.405(5) are required to install and operate CEMS for NO_x emissions. This provision continues to require CEMS to meet the requirements of 40 CFR part 75, as adopted and incorporated by reference in Rule 62-204.800. Additionally, Rule 62-

¹⁷ Rule 62-204.800 adopts and incorporates by reference Federal rules cited throughout FDEP’s air pollution rules.

296.405(1)(e)5 is renumbered to Rule 62-296.405(6)(e), and Rule 62-296.405(1)(f) through (1)(f)2 are renumbered to Rule 62-296.405(7) through (7)(b), respectively.

Finally, Florida's Supplemental SSM SIP Revision renumbers Rules 62-296.405(1)(g) and .405(3) to Rules 62-296.405(8) and .405(9), respectively, and makes additional changes to 62-296.405(8). Specifically, the revisions to Rule 62-296.405(8) change the frequency at which excess emissions reports are required to be submitted from quarterly to semi-annual, define the period covered by each semi-annual report, and define the submittal deadline for each report. The change in reporting frequency is consistent with the minimum reporting requirements of Appendix P to 40 CFR part 51. As discussed in section II.B.1, revising the frequency of reports of excess emissions to align with the federal minimum requirements and with other overlapping requirements, such as title V reporting, will not override any more stringent reporting requirements, will not cause any changes in allowable pollutant emissions, and will not otherwise interfere with the State's ability to attain and maintain the NAAQS or interfere with any other applicable CAA requirement, and as such, is consistent with CAA section 110(l). Therefore, because the changes to Rule 62-296.405 are generally clarifying in nature and consistent with federal requirements, EPA is proposing to approve these changes submitted in Florida's Supplemental SSM SIP Revision.

3. Rule Section 62-296.408 Nitric Acid Plants

In Florida's Supplemental SSM SIP Revision, FDEP proposes several changes to Rule 62-296.408, "Nitric Acid Plants." Specifically, Florida's Supplemental SSM SIP Revision deletes the production-based short-term 3-hour average NO_x emission limit of 3.0 lbs/ton of 100 percent acid produced in Rule 62-296.408(2) and deletes the NO_x test methods listed in Rule 62-296.408(3)(b) (which prescribe stack testing), and it marks both deleted provisions as "[Reserved]." The existing Rule 62-296.408(2) production-based NO_x emission limit of 3.0 lbs/ton of 100 percent acid produced was not originally intended to be applicable during periods of SSM because 1) the methodology to calculate compliance with a rolling three-hour

production-based limit is skewed by the lack of production during hours of startup and shutdown, and 2) the corresponding NSPS at 40 CFR part 60, subpart G, on which the Florida emission limit for new units is based, exempted periods of SSM via performance testing requirements in subpart A to part 60 in the original promulgation of part 60 and as subsequently clarified.¹⁸ The current SIP-approved version of Rule 62-210.700 provided that excess emissions during periods of SSM were allowed.

There are currently two NAPs in Florida subject to this Rule, Ascend Pensacola and Trademark Nitrogen. To replace the deleted production-based limits, FDEP is proposing to incorporate into the SIP a NO_x emission limit of 2.6 lbs/ton of 100 percent nitric acid produced based on a longer-term (720-hour) averaging period for Emissions Unit 042 at Ascend Pensacola and a NO_x emission limit of 2.6 lbs/ton of nitric acid produced based on a longer-term (30-day) averaging period for Emissions Unit 001 at Trademark Nitrogen. Although 720 hours is equivalent to 30 days, these two different rolling averages result in slightly different recordkeeping: Ascend Pensacola demonstrates compliance on an hourly rolling average, whereas Trademark Nitrogen demonstrates compliance on a daily rolling average. Both proposed longer-term NO_x emission limits, which apply at all times, including periods of SSM, are comparably stringent to the current NO_x emission limit of 3.0 lbs/ton of 100 percent acid produced in Rule 62-296.408. For both Ascend Pensacola and Trademark Nitrogen, FDEP is also proposing to incorporate into the SIP shorter-term 3-hour average emission limits of 3.0 lbs/ton of 100 percent nitric acid produced, which do not apply during periods of SSM. Thus, for steady-state operation, the NO_x emission limit in existing Rule 62-296.408 will be carried forward as source-specific emission limits for both facilities.

FDEP has issued construction permits containing the proposed longer-term NO_x emission limits as well as the short-term NO_x emission limit of 3.0 lbs/ton of 100 percent acid produced, which is proposed for deletion from the SIP but will continue to exist in the permits.

¹⁸ See *supra* note 5.

Therefore, Ascend Pensacola and Trademark Nitrogen will be subject to both the same 3-hour average NO_x emission limit of 3.0 lbs/ton of 100 percent acid produced, which specifically excludes periods of SSM, as well as the continuous 30-day (or, for Ascend Pensacola, 720-hour) average NO_x emission limit of 2.6 lbs/ton of 100 percent acid produced. Thus, these facilities are subject to two limits, one which is continuous, i.e., applies at all times, and therefore provides a limit that covers periods of SSM.

EPA is proposing to approve Florida's Supplemental SSM SIP Revision to remove the existing NO_x limit from Rule 62-296.408 and incorporate the source-specific permit limits because the source-specific emission limits submitted to EPA are continuous and at least as stringent as the existing SIP-approved limit. Refer to sections II.B.5.i, vii and viii of this NPRM for further discussion on the emissions-unit-specific NO_x emission limits, the methodology used for developing those emission limits, and the rationale for the substitution of these limits for the existing SIP-approved emission limits included at 62-296.408, which support EPA's proposed action.

4. Rule Section 62-296.570, Reasonably Available Control Technology (RACT) – Requirements for Major VOC- and NO_x-Emitting Facilities

In Florida's Supplemental SSM SIP Revision, FDEP proposes to revise Rule Section 62-296.570, "Reasonably Available Control Technology (RACT) – Requirements for Major VOC- and NO_x-Emitting Facilities." Specifically, FDEP amends Rule 62-296.570(4)(c) by deleting the term "Exception" from the prefatory text and "at all times except" as a limitation on the applicability of the emission limits in the Rule. The proposed amendment removes an exception for periods of SSM, ensuring that RACT emission limits in Rule 62-296.570 apply at all times and during all modes of operation, consistent with revised Rule 62-210.700. Therefore, EPA is proposing to approve this change to Rule 62-296.570 because this language, as revised, is consistent with the 2015 SSM Policy.

5. Florida's Source-Specific SO₂ and NO_x Emission Limits

On June 2, 2010, the EPA Administrator signed a final rule setting a new SO₂ NAAQS as a 1-hour standard of 75 parts per billion (ppb), based on a 3-year average of the annual 99th percentile of 1-hour daily maximum concentrations. *See* 75 FR 35520 (June 22, 2010). That action also revoked the 1971 annual and 24-hour SO₂ NAAQS, subject to certain conditions. Whenever a NAAQS is revised, the CAA requires EPA to designate areas throughout the United States as attaining or not attaining the NAAQS; this designation process is described in section 107(d)(1) of the CAA. *See* 75 FR 35520. EPA completed four “rounds” of designations for the 2010 1-hour SO₂ NAAQS.¹⁹ In two of these rounds of air quality designations, three areas in Florida were designated nonattainment.²⁰

To assist states in demonstrating attainment with the primary 2010 1-hour SO₂ NAAQS, EPA issued a guidance document titled “Guidance for 1-Hour SO₂ Nonattainment Area SIP Submissions” (SO₂ Nonattainment Guidance) on April 23, 2014.²¹ The SO₂ Nonattainment Guidance provides EPA’s recommended procedures for demonstrating that a nonattainment area will attain the 2010 1-hour SO₂ NAAQS. Among other things, it provides guidance for using a statistical analysis to determine NAAQS-protective longer-term emission limits for sources with variable emissions. This procedure involves compiling a representative distribution, or sample set, of actual emissions data on a 1-hour average, using these data to compute a corresponding distribution of longer-term emission averages, and then calculating the ratio of the 99th percentile of the longer-term values to the 99th percentile of the hourly values. The calculation of this “equivalency ratio” of 99th percentile emissions results in the relative “smoothing” of emissions values recorded in the shorter-term averaging period by reducing the variability in the data assessed and can be used to scale down the value of a longer-term average emission limit to make it comparably stringent to a shorter-term average emission limit.

¹⁹ *See* Sulfur Dioxide Designations - Regulatory Actions, <https://epa.gov/sulfur-dioxide-designations/sulfur-dioxide-designations-regulatory-actions>.

²⁰ *See* 78 FR 47191 (August 5, 2013), 83 FR 1098 (January 9, 2018).

²¹ *See* SO₂ Nonattainment Guidance, <https://www.epa.gov/so2-pollution/guidance-1-hour-sulfur-dioxide-so2-nonattainment-area-state-implementation-plans-sip>.

In accordance with the SO₂ Nonattainment Guidance, an analysis for determining a NAAQS-protective longer-term average emission limit requires determination of a “critical emission value” (CEV), that is, the maximum 1-hour emissions rate that provides for attainment as indicated by modeling. Once determined through modeling, the CEV is adjusted downward by the equivalency ratio to obtain a lower emission rate of comparable stringency to the modeled 1-hour average emission rate. The longer the averaging period, the smaller the equivalency ratio will be. Comparison of the modeled 1-hour limit to longer-term (e.g., 6-hour, 24-hour, 720-hour) average limits, in particular an assessment of whether the longer-term average limit may be of comparable stringency to the 1-hour CEV, is critical for demonstrating that any longer-term average limit in the SIP will ensure that the SIP will provide for attainment and maintenance of the 1-hour NAAQS. Florida employed this approach to develop limits for several SAPs in its nonattainment areas and in one unclassifiable area, as designated at the time of the SIP revisions containing those limits. All SO₂ nonattainment and unclassifiable areas in Florida have since been redesignated to attainment or attainment/unclassifiable.²²

The Supplemental SSM SIP Revision contains longer-term average emission limits which are comparably stringent to a shorter-term average limit as it seeks to replace SIP emission limits for SAPs and NAPs that are based on a 3-hour average and only applicable to steady-state operation with continuous emission limits that also apply during periods of SSM. The use of longer-term averaging periods could help to help account for the additional variability in emissions introduced when considering all modes of operation. More detail is provided with respect to the NAPs and the remaining SAPs in the State in the following sections.

i. Methodology for Developing Continuous SO₂ Emission Limits

In the Supplemental SSM SIP Revision, Florida proposes use of a similar approach for developing longer-term average SO₂ emission limits which are of comparable stringency to the current shorter-term (3-hour) SO₂ emission limits in Florida’s SIP. Currently, SO₂ emissions for

²² See 84 FR 17085 (April 24, 2019), 84 FR 60927 (November 12, 2019), and 85 FR 9666 (February 20, 2020).

new SAPs are limited by Rule 62-296.402(2) to 4.0 lbs/ton of acid produced, averaged over a 3-hour period. Comparable longer-term (24-hour) emission limits were calculated by substitution of the Rule 62-296.402(2) emission limit of 4.0 lbs/ton of acid produced in place of a CEV. Using this approach, FDEP proposes source-specific permit limits that are comparably stringent to the current SIP-approved emission limits, but which allow for emissions variability (e.g., during periods of startup).

Making use of available CEMS data, FDEP compared the 99th percentile 3-hour average emission values to the 99th percentile 24-hour average emission values to develop the source-specific equivalency ratios. To be additionally conservative, FDEP also compared the 99th percentile 1-hour average emission values, which would include more data variability than the 3-hour values, to the 99th percentile 24-hour average emission values to develop alternative equivalency ratios. As Florida sought to establish a mass-based (hourly) emission limit, the State multiplied the capacity of the SAPs by the Rule 62-296.402 production-based limit to determine the maximum hourly emissions permitted for steady-state periods. An appropriate longer-term emission limit was then calculated as the product of the hourly representation of the Rule 62-296.402(2) emission limit and the equivalency ratio at the selected longer-term averaging period. FDEP then worked with the sources to develop continuous longer-term average emission limits in construction permits and submit those permit conditions for incorporation into the SIP. In each case, the SAPs were permitted with emission limits at least as stringent as the methodology for determining a comparably stringent longer-term average emission limit and either equivalency ratio would produce. Table 1 shows equivalency ratios over different averaging times for the Nutrien White Springs and Mosaic South Pierce SAPs. The TECO Polk SAP is not included in Table 1, because this unit is not equipped with CEMS data, which is discussed in further detail in section II.B.5.v of this NPRM. The other 11 SAPs subject to Rule 62-296.402 at Mosaic Fertilizer's Riverview facility (Mosaic Riverview), Mosaic Fertilizer's Bartow facility (Mosaic Bartow), and Mosaic Fertilizer's New Wales facility (Mosaic New Wales) are not

included in Table 1, because these SAPs already have continuous limits approved into the SIP, which is discussed in further detail in section II.B.5.vi of this NPRM.

Table 1. Calculated Equivalency Ratios for SO₂ Emissions

Facility	Emissions Unit	Equivalency Ratio (6-hr:1-hr)	Equivalency Ratio (24-hr:1-hr)	Equivalency Ratio (24-hr:3-hr)
Nutrien White Springs	066-SAP E	0.976	0.940	0.950
	067-SAP F	0.963	0.899	0.914
Mosaic South Pierce	004-#10 SAP	0.991	0.986	0.991
	005-#11 SAP	0.986	0.969	0.976

Scaling the hourly emissions by an equivalency ratio in Table 1 provides a comparably stringent mass-based limit. As an example, the calculation for Mosaic South Pierce would be as follows. The #10 and #11 SAPs each have a capacity of 3,000 tons of sulfuric acid produced per day, so the equivalent mass-based emissions (lbs/hr) are determined by:

$$\frac{4.0 \text{ lbs SO}_2}{\text{ton sulfuric acid produced}} \cdot \frac{3,000 \text{ tons sulfuric acid produced}}{\text{day}} \cdot \frac{1 \text{ day}}{24 \text{ hr}} = 500 \frac{\text{lbs SO}_2}{\text{hr}}.$$

The collective emissions across both SAPs is then 1,000 lbs/hr SO₂. The average of the two 24-hr:1-hr equivalency ratios for these units would be 0.978. The adjustment to the longer-term average comparably stringent emission cap across both units would be:

$$1,000 \frac{\text{lbs SO}_2}{\text{hr}} \cdot 0.978 = 978 \frac{\text{lbs SO}_2}{\text{hr}}.$$

For comparison purposes, the equivalent maximum production-based emissions would be:

$$\frac{978 \text{ lbs SO}_2}{\text{hr}} \cdot \frac{24 \text{ hr}}{\text{day}} \cdot \frac{1 \text{ day}}{6,000 \text{ tons sulfuric acid produced}} = \frac{3.91 \text{ lbs SO}_2}{\text{ton sulfuric acid produced}}.$$

The final selected ratio is 0.750, as agreed upon by FDEP and Mosaic South Pierce, and is described in further detail in section B.5.iv of this NPRM. At the final selected ratio of 0.750, the selected longer-term average comparably stringent emission limit would be:

$$1,000 \frac{\text{lbs SO}_2}{\text{hr}} \cdot 0.750 = 750 \frac{\text{lbs SO}_2}{\text{hr}} < 978 \frac{\text{lbs SO}_2}{\text{hr}}.$$

The final equivalent mass rate for comparison purposes would be:

$$\frac{750 \text{ lbs SO}_2}{\text{hr}} \cdot \frac{24 \text{ hr}}{\text{day}} \cdot \frac{\text{day}}{6,000 \text{ tons sulfuric acid produced}} = \frac{3.00 \text{ lbs SO}_2}{\text{ton sulfuric acid produced}}$$

$$< \frac{3.91 \text{ lbs SO}_2}{\text{ton sulfuric acid produced}}$$

ii. Methodology for Developing Continuous NO_x Emission Limits

On January 22, 2010, EPA strengthened the health-based standard for nitrogen dioxide (NO₂) by setting a new 1-hour standard of 100 ppb. In addition to establishing an averaging time and level, the EPA Administrator also set a new form for the standard. The form for the 1-hour NO₂ standard is the 3-year average of the 98th percentile of the annual distribution of daily maximum 1-hour average concentrations. The rule also retained, with no change, the current annual average NO₂ standard of 53 ppb. *See* 75 FR 6474 (February 9, 2010). No areas in Florida were designated nonattainment for the 2010 NO₂ NAAQS.²³

Florida uses an approach similar to the methodology employed to develop its proposed longer-term average SO₂ emission limits for developing proposed longer-term average NO_x emission limits which are of comparable stringency to the shorter-term NO_x emission limit currently in Florida's SIP. Currently, NO_x emissions for new and existing NAPs are limited by Rule 62-296.408(2) to 3.0 lbs/ton of 100 percent nitric acid produced. Comparable longer-term (720-hour and 30-day) NO_x emission limits were calculated by applying the comparably stringent concept utilized in the SO₂ Guidance to the Rule 62-296.408(2) emission limit of 3.0 lbs/ton of 100 percent acid produced. In other words, FDEP used the current SIP-approved NO_x emission limit to develop the new longer-term average continuous emission limit.

The production-based ratio of lb NO_x/ton of nitric acid produced is skewed during periods where nitric acid production is significantly decreased, such as startup or shutdown. Accordingly, the variability in those periods may not reflect the variability in NO_x emissions coming out of the stack, as the ratio of emissions/production can be altered by either component. To evaluate the actual variability in emissions, FDEP analyzed the CEMS data in lbs/hr to

²³ *See* 77 FR 9532 (February 17, 2012).

determine the equivalency ratios rather than the change in emission-to-production ratios over time. Specifically, FDEP compared the 98th percentile 1-hour and 3-hour average emission values in lbs/hr to the 98th percentile 30-day average emission values to develop the source-specific equivalency ratios.²⁴ The continuous, source-specific emission limit was then calculated as the product of the Rule 62-296.408(2) emission limit and the equivalency ratio at the selected longer-term averaging period.

The State subsequently worked with the sources to develop continuous longer-term average emission limits in construction permits and submit those permit conditions for incorporation into the SIP. The NAPs were permitted with emission limits at least as stringent as the methodology for determining a comparably stringent longer-term average emission limit and either equivalency ratio would produce. Table 2 shows equivalency ratios over different averaging times for the Ascend Pensacola NAP. The Trademark Nitrogen NAP is not included in Table 2 because, although this unit is equipped with CEMS, that source's data is not digitized and readily available for this type of analysis. The Ascend Pensacola data was utilized for both NAPs subject to Rule 62-296.408. This is discussed in further detail in section II.B.5.viii of this NPRM.

Table 2. Calculated Equivalency Ratios for NO_x Emissions

Facility	Emissions Unit	Equivalency Ratio (720-hr:1-hr)	Equivalency Ratio (720-hr:3-hr)
Ascend Pensacola	042 – NAP	0.950	0.958

Scaling the existing steady-state SIP limit by an equivalency ratio in Table 2 provides a comparably stringent longer-term average emission limit. Scaling the production-based limit by the equivalency ratio is the same as scaling the maximum hourly emissions and subsequently converting it to the equivalent ratio of pounds per ton (lbs/ton) of nitric acid produced at the

²⁴ While the 2010 NO₂ NAAQS, like the 2010 SO₂ NAAQS, utilizes a 1-hour averaging period, the form of the NO₂ NAAQS is the 98th percentile rather than the 99th percentile.

maximum throughput. The Ascend Pensacola NAP has a capacity of 1,500 tons of nitric acid produced per day, so the equivalent mass-based emissions (lbs/hr) are determined by:

$$\frac{3.0 \text{ lbs NOx}}{\text{ton nitric acid produced}} \cdot \frac{1,500 \text{ tons nitric acid produced}}{\text{day}} \cdot \frac{1 \text{ day}}{24 \text{ hr}} = 187.5 \frac{\text{lbs NOx}}{\text{hr}}.$$

The adjustment to the longer-term average comparably stringent emission cap with use of the 720-hr:1-hr equivalency ratio of 0.950 would be:

$$187.5 \frac{\text{lbs NOx}}{\text{hr}} \cdot 0.950 = 178.1 \frac{\text{lbs NOx}}{\text{hr}}.$$

$$\frac{178.1 \text{ lbs NOx}}{\text{hr}} \cdot \frac{24 \text{ hr}}{\text{day}} \cdot \frac{1 \text{ day}}{1,500 \text{ tons nitric acid produced}} = \frac{2.85 \text{ lbs NOx}}{\text{ton nitric acid produced}};$$

or

$$\frac{3.0 \text{ lbs NOx}}{\text{ton nitric acid produced}} \cdot 0.950 = \frac{2.85 \text{ lbs NOx}}{\text{ton nitric acid produced}}$$

The final selected ratio is 0.867, as agreed upon by FDEP and Ascend Pensacola, and is described in further detail in section B.5.vii of this NPRM. At the final selected ratio of 0.867, the selected longer-term average comparably stringent emission limit would be:

$$\frac{3.0 \text{ lbs NOx}}{\text{ton nitric acid produced}} \cdot 0.867 = \frac{2.6 \text{ lbs NOx}}{\text{ton nitric acid produced}} < \frac{2.85 \text{ lbs NOx}}{\text{ton nitric acid produced}};$$

or

$$187.5 \frac{\text{lbs NOx}}{\text{hr}} \cdot 0.867 = 162.6 \frac{\text{lbs NOx}}{\text{hr}} < 178.1 \frac{\text{lbs NOx}}{\text{hr}}.$$

While a final longer-term average mass-based emission limit in lbs/hr is more straightforward, the State can set the final longer-term average limit as a production-based limit in units of lbs/ton of nitric acid produced. A source is more vulnerable to periods of low production of nitric acid with the emission limit in the lbs/ton of nitric acid form because such periods of low production can skew the ratio high, even if NOx emissions from the source have not significantly increased. However, with the 720-hour and 30-day rolling averaging times, these periods of low production will not be as likely to result in noncompliance as the 3-hour averaging time for the Rule 62-296.408 limit would be. Generally, in periods with decreased

production of nitric acid, the source is still motivated to compensate with decreased emissions to bring the ratio of lbs/ton of nitric acid produced downward. In the alternative, should the source emit at significantly higher lbs/hr rates, the source would be unable to compensate by increasing the production of nitric acid beyond what the unit is rated for. Therefore, the lbs/ton of nitric acid produced form of the emission limit is not less stringent than a mass-based (lbs/hr) emission limit would be.

Based on the modified methodology (i.e., substituting SO₂ and NO_x emission limits from Rules 62-296.402(2) and 62-296.408(2) for the modeled CEV in the SO₂ Guidance), FDEP proposes that emissions-unit-specific emission limits be incorporated into the SIP as comparably stringent longer-term emission limits, thereby providing continuous emission limits for these facilities upon approval of Florida's Supplemental SSM SIP Revision. These emission limits would be applicable at all times and during all modes of operation, including periods of SSM. Each emission limit was included in construction permits issued recently by FDEP. Using this approach, any emission limit established for a source with an averaging time longer than one hour would be set at a level that is sufficiently lower to provide a comparable degree of stringency as the existing 3-hour SIP emission limit. The adjusted longer-term limit would allow occasional emission spikes above the limit during shorter averaging periods, but this adjusted limit would also require emissions to be lower for most of the averaging period than they would be required to be with a 3-hour emission limit. Thus, the longer-term average emission limit, when adjusted for comparable stringency, will result in reduced overall allowable emissions at the longer-term averaging time and beyond, and will require the source to minimize any excursions above the previous 3-hour averaging period. The development of these emission limits for each facility, and assessment of the impacts to the SIP, are discussed in greater detail in sections II.B.5.iii–viii below.

iii. Nutrien White Springs, Emissions Units 066 and 067 (SAPs E and F)

Permit 0470002-132-AC, issued to Nutrien White Springs on September 22, 2022, imposes a combined longer-term SO₂ emissions cap of 840 lbs/hr, based on a 24-hour block averaging period (0600 hours to 0600 hours) for SAPs E and F, requires that initial and ongoing compliance demonstrations be based on SO₂ CEMS data, and specifies recordkeeping requirements applicable to the combination of Emissions Unit 066 (SAP E) and Emissions Unit 067 (SAP F). By permit, these conditions became effective January 1, 2023. SAPs E and F are both subject to this SO₂ emissions cap during all times of operation, including periods of SSM; however, the 24-hour block average must omit data generated during any hours when both SAPs are not operating. Florida's Supplemental SSM SIP Revision requests that EPA incorporate this emissions limit and associated monitoring, recordkeeping, and reporting requirements into the SIP.

The longer-term SO₂ emission cap is in addition to an existing 3-hour rolling average SO₂ emission limit of 2.6 lbs/ton of sulfuric acid produced, which does not include periods of SSM, and a 365-day rolling average SO₂ emission limit of 2.3 lbs/ton of sulfuric acid produced on a 365-day rolling average that does include SSM. Florida also submitted the 3-hour rolling average and 365-day rolling average limits to EPA for incorporation into the SIP via an October 8, 2021, SIP revision, which EPA will address in a separate action.

The longer-term 24-hour SO₂ emission limit was calculated based on an equivalency ratio of 0.916, which FDEP and Nutrien White Springs agreed upon as a conservative equivalency ratio. The agreed-upon equivalency ratio corresponds with the lower end of the calculated 24-hour to 3-hour equivalency ratios for SAPs E and F listed in Table 1 and is less than the average of the two equivalency ratios calculated for these emissions units and, therefore, results in a more stringent emission limit across the two SAPs. The proposed SO₂ emission limit of 840 lbs/hr (24-hour average) is based on concurrent operation of SAPs E and F at the maximum permitted hourly throughput rate for each unit. Table 3 compares the existing Rule limit to the proposed source-specific SIP limit.

Table 3. Nutrien White Springs, Comparison of Existing Rule and Proposed Source-Specific Emission Limits

Emission Unit	Sulfuric Acid Capacity (tpd)	Current Production-Based SIP Limit ^a			Proposed Source-Specific SIP Limit ^b		
		SO ₂ Limit (lbs/ton acid produced) [3-hr avg]	Combined Calculated SO ₂ Hourly Emissions (lbs/hr) [3-hr avg]	Combined Maximum Annual SO ₂ Emissions (tpy) ^c	Combined Calculated SO ₂ Production Emission (lbs/ton) [24-hr avg]	Combined Hourly SO ₂ Limit (lbs/hr) [24-hr avg]	Combined Maximum Annual SO ₂ Emissions (tpy)
066 (SAP E)	2,750	4	917	4,015	3.67	840	3,679
067 (SAP F)	2,750	4					

^a Rule 62-296.402(2).

^b Permit No. 0470002-132-AC. Based on an equivalency ratio of 0.916 agreed upon by FDEP and Nutrien.

^c tpy = tons per year

Regarding the two SAPs at Nutrien White Springs, EPA has evaluated the incorporation of the new hourly emission limit against removal of the historical production-based limits in Rule 62-296.402 from the SIP considering the requirements of CAA section 110(l), which provides that EPA shall not approve a revision to a plan if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the CAA. In its submission, FDEP provides an analysis utilizing a methodology similar to the approach outlined in the SO₂ Nonattainment Guidance for developing a long term, 24-hr block averaging period (0600 hours to 0600 hours) SO₂ emission limit, applicable at all times during operation, for the combination of Emissions Units 006 (SAP E) and 067 (SAP F) at the Nutrien White Springs facility that is comparably stringent to the Rule 62-296.402(2) SO₂ emission limit in Florida's SIP.

Given that the proposed source-specific hourly limit applies at all times, it is more stringent for periods of SSM than the existing Rule 62-296.402 limit, which does not apply during these periods. Furthermore, EPA is proposing to find that the source-specific emission limit is consistent with the 2015 SSM Policy and helps FDEP achieve consistency with the 2015 SSM SIP Action across its SIP by eliminating an emission limit that does not apply at all times

and including an emission limit that applies at all times. Table 3 shows that the new source-specific limit is comparably stringent to the existing Rule 62-296.402 3-hour emission limit for non-SSM periods of operation. Additionally, Florida selected a 24-hour average source-specific emission limit that is more stringent than one calculated using the equivalency ratios in Table 1 (840 lbs/hr versus 844 lbs/hr). Therefore, EPA does not expect emissions to increase as a result of removing the existing Rule 62-296.402 production-based emission limit. Additionally, EPA notes that these units remain subject to the equivalent 3-hour average emission limit covering steady-state operation pursuant to 40 CFR part 60, subpart H. Thus, the 3-hour average allowable emissions applicable to steady-state (non-SSM) operation will not be relaxed, even with the removal of the Rule 62-296.402 3-hour emission limit.

The proposed 24-hour SO₂ emission limit for SAPs E and F at Nutrien White Springs is of comparable stringency to the emission limit in Rule 62-296.402. Because the facility will have a permanent and federally enforceable SIP-approved emission limit that is comparably stringent to the existing Rule limit and that applies at all times, EPA proposes to remove the emission limit at Rule 62-296.402(2)(b) from the SIP.

iv. Mosaic Fertilizer, South Pierce Facility, Emissions Units 004 and 005 (SAPs 10 and 11)

Permit 1050055-037-AC, issued to Mosaic South Pierce on September 22, 2022, imposes a combined longer-term SO₂ emissions cap of 750 lbs/hr based on a 24-hour block averaging period (0600 hours to 0600 hours) for SAP #10 and #11, specifies initial and ongoing compliance demonstrations be based on SO₂ CEMS data, and specifies recordkeeping requirements applicable to the combination of Emissions Unit 004 (SAP #10) and Emissions Unit 005 (SAP #11). By permit, the conditions became effective April 1, 2023. SAP #10 and #11 are collectively subject to a longer-term SO₂ emissions cap during all times of operation, including periods of SSM. The 24-hour block average does not include any hours during which both SAPs are not operating. Florida's Supplemental SSM SIP Revision requests that EPA

incorporate these emissions limits and associated monitoring, recordkeeping, and reporting requirements into the SIP.

The longer-term 24-hour SO₂ emissions cap was calculated based on an equivalency ratio of 0.750, which FDEP and Mosaic agreed upon as a conservative ratio. This factor is far less than the calculated 24-hour to 3-hour equivalency ratios for SAPs #10 and #11, as shown in Table 1, and results in proposed source-specific SIP emission limits that are more conservative than called for by the comparable stringency approach. The proposed SO₂ emission limit of 750 lbs/hr (24-hour average) is based on concurrent operation of SAP 10 and SAP 11 at the maximum permitted hourly throughput rate for each unit. Table 4 compares the existing Rule limit to the proposed source-specific SIP limit.

Table 4. Mosaic Fertilizer, South Pierce, Comparison of Existing Rule and Proposed Source-Specific Emission Limits

Emission Unit	Sulfuric Acid Capacity (tpd)	Current Production-Based SIP Limit ^a			Proposed Source-Specific SIP Limit ^b		
		SO ₂ Limit (lbs/ton acid produced) [3-hr avg]	Combined Calculated SO ₂ Hourly Emissions (lbs/hr) [3-hr avg]	Combined Maximum Annual SO ₂ Emissions (tpy)	Calculated SO ₂ Production Emissions (lbs/ton) [24-hr avg]	Combined Hourly SO ₂ Limit (lbs/hr) [24-hr avg]	Combined Maximum Annual SO ₂ Emissions (tpy)
4 (#10 SAP)	3,000	4	1,000	4,380	3	750	3,285
5 (#11 SAP)	3,000	4					

^a Rule 62-296.402(2).

^b Permit No. 1050046-083-AC. Based on an equivalency ratio of 0.750 agreed upon by FDEP and Mosaic.

Regarding the two SAPs at Mosaic South Pierce, EPA has evaluated incorporation of the new hourly emission limit against the removal of the historical production-based limits in Rule 62-296.402 from the SIP considering the requirements of CAA section 110(l). In its submission, FDEP provides an analysis utilizing a methodology similar to the approach outlined in the SO₂ Nonattainment Guidance for developing a long term, 24-hr block averaging period (0600 hours to 0600 hours), SO₂ emission limit, applicable at all times during operation, for the combination

of Emissions Units 004 and 005 at Mosaic South Pierce that is comparably stringent to the Rule 62-296.402(2) SO₂ emission limit in Florida's SIP.

Given that the proposed source-specific hourly limit applies at all times, it is more stringent for periods of SSM than the Rule limit, which does not apply during these periods. Furthermore, EPA is proposing to find that the source-specific emission limit is consistent with the 2015 SSM Policy and helps FDEP achieve consistency with the 2015 SSM SIP Action across its SIP. Table 4 shows that the new source-specific limit is comparably stringent to the existing Rule 62-296.402 3-hour emission limit for non-SSM periods of operation. Florida selected a 24-hour average source-specific emission limit that is more stringent than one calculated using the equivalency ratios in Table 1 (750 lbs/hr versus 978 lbs/hr). Therefore, EPA does not expect emissions to increase as a result of removing the existing Rule 62-296.402 production-based emission limit. Additionally, EPA notes that these units remain subject to the equivalent 3-hour average emission limit covering steady-state operation pursuant to 40 CFR part 60, subpart H. Thus, the 3-hour average allowable emissions applicable to steady-state (non-SSM) operation will not be relaxed, even with the removal of the Rule 62-296.402 3-hour emission limit.

The 24-hour SO₂ emission limit for SAPs 10 and 11 at the Mosaic South Pierce is of comparable stringency to the emission limits in Rule 62-296.402. Because the facility will have a permanent and federally enforceable SIP-approved emission limit that is as stringent as the Rule limit and that applies at all times, EPA proposes to remove the emission limit at Rule 62-296.402(2)(b) from the SIP.

v. TECO-Polk Power Station, Emissions Unit 004, SAP

Permit 1050233-050-AC, issued to TECO-Polk on September 21, 2022, imposes a longer-term SO₂ emission limit of 48.0 lbs/hr, based on a 6-hour average, specified SO₂ emissions testing by stack test (EPA Method 6C), and adds recordkeeping and recording requirements applicable to the facility's SAP. By permit, these conditions became effective January 1, 2023. Florida's Supplemental SSM SIP Revision requests that EPA incorporate this

emissions limit and associated monitoring, recordkeeping, and reporting requirements into the SIP.

TECO-Polk is not equipped with a SO₂ CEMS, as the facility has never been subject to the NSPS at 40 CFR part 60, subpart H, and is not subject to Appendix P of 40 CFR part 51. Thus, Florida chose to select a longer-term average emission limit that would still allow for stack testing to determine compliance. The State determined that six 1-hour stack test runs could be utilized for a slightly longer-term, 6-hour average emission limit, and that this averaging timeframe would help to account for additional variability in the emissions when applying the limit to all modes of operation. The selected 6-hour emission limit was adjusted downward from the hourly expression of the production-based 3-hour average SIP emission limit, from 49.8 lbs/hr to 48.0 lbs/hr, to account for possible excursions above the limit during shorter averaging periods. The State checked this new emission limit against 6-hour:3-hour and 6-hour:1-hour equivalency ratios for Nutrien White Springs and Mosaic South Pierce SAPs which are equipped with CEMS. Calculated equivalency ratios for these sulfuric acid plants are listed in Table 1. The selected limit is consistent with the smallest fractional 6-hour:1-hour equivalency ratio of 0.963 across these SAPs, calculated for SAP F at the Nutrien White Springs. The 6-hour average emission limit is applicable at all times during operation, including periods of SSM. The proposed SO₂ emission limit of 48.0 lbs/hr (6-hour average) is based on operation of the SAP at TECO-Polk at the maximum permitted hourly throughput rate. Table 5 compares the existing Rule limit to the proposed source-specific emission limit.

Table 5. TECO Polk Power Station, Comparison of Existing Rule and Proposed Source-Specific Emission Limits

Emission Unit	Sulfuric Acid Capacity (tpd)	Current Production-Based SIP Limit ^a			Proposed Source-Specific SIP Limit ^b		
		SO ₂ Limit (lbs/ton acid produced) [3-hr avg]	Calculated SO ₂ Hourly Emissions (lbs/hr) [3-hr avg]	Maximum Annual SO ₂ Emissions (tpy)	Calculated SO ₂ Production Emissions (lbs/ton) [6-hr avg]	Hourly SO ₂ Limit (lbs/hr) [6-hr avg]	Maximum Annual SO ₂ Emissions (tpy)
004	299	4	49.8	218.3	3.85	48.0	214.6

^a Rule 62-296.402(2).

^b Permit No. 1050233-050-AC.

As noted previously, the TECO-Polk SAP is not equipped with a SO₂ CEMS. EPA also notes that annual SO₂ potential emissions from the TECO-Polk SAP, at 214.6 tpy, are an order of magnitude less than the Nutrien White Springs SAPs (3,678 tpy) and Mosaic South Pierce SAPs (3,285 tpy), as can be seen in Tables 3, 4, and 5.²⁵ Therefore, EPA believes this separate approach to determining a slightly longer-term average emission limit, in the absence of other information, is appropriate.

Regarding the SAP at TECO-Polk, EPA has evaluated incorporation of the new hourly emission limit against the removal of the historical production-based limit in Rule 62-296.402 from the SIP considering the requirements of CAA section 110(l). In its submission, FDEP's methodology for developing a longer-term 6-hour SO₂ emission limit, applicable at all times during operation, for the TECO-Polk Power Station SAP (Emissions Unit 004), was reasonable in the absence of other data, such as CEMS data, and given that the averaging time was only increasing slightly. The State checked that the equivalency ratio for other SAPs equipped with CEMS would result in a similar adjustment downward in moving from a 3-hour average to a 6-hour average emission limit. The resultant longer-term average emission limit is at least as stringent as the current 3-hour SO₂ emission limit at Rule 62-296.402(2) of the Florida SIP and, at the averaging time of 6-hours and beyond, reduces the PTE.

Given that the proposed source-specific hourly limit applies at all times, it is more stringent for periods of SSM than the Rule limit which does not apply during these periods. Furthermore, EPA is proposing to find that the source-specific emission limit is consistent with the 2015 SSM Policy and helps FDEP achieve consistency with the 2015 SSM SIP Action across its SIP. Table 5 shows that the new source-specific limit is as stringent as the existing Rule 62-296.402 3-hour emission limit for non-SSM periods of operation. The selected emission limit would be in line with the most conservative equivalency ratio that SO₂ CEMS data available for

²⁵ EPA also notes as a practical matter that EU004 at TECO Polk has not operated in recent years due to the facility's combustion of natural gas in lieu of generating syngas from coal and petroleum coke, which would then be treated by the SAP for sulfur removal ahead of combustion.

SAP E and SAP F at the Nutrien White Springs facility and SAP 10 and SAP 11 at Mosaic South Pierce would determine. Therefore, EPA does not expect emissions to increase as a result of removing the existing Rule 62-296.402 production-based emission limit.

The 6-hour SO₂ emission limit for the SAP at TECO-Polk is at least as stringent as the emission limits in Rule 62-296.402. Because the facility will have a permanent and federally enforceable SIP-approved emission limit that is as stringent as the Rule limit and is applicable at all times, EPA proposes to approve removal of the emission limit at Rule 62-296.402(2)(b) from the SIP.

vi. SAPs with Previously Approved Source-Specific Emissions

Removing the emission limits at Rule 62-296.402 from the SIP would also remove applicable emission limits for several other SAPs in Florida for which EPA has already approved source-specific continuous emission limits that are significantly more stringent than the limits being removed. In addition to the production-based limit of 4.0 lbs/ton of sulfuric acid produced, FDEP is removing the higher emission limit of 10.0 lbs/ton of sulfuric acid produced at Rule 62-296.402(1)(a)2 and 29.0 lbs/ton of sulfuric acid produced at 62-296.402(1)(b)2.

Only “existing emission units” in the State (i.e., those which, in accordance with the definitions at Rule 62-210.200 were in existence, in operation, or under construction, or which had received a permit to begin construction prior to January 18, 1972) would have been subject to the less stringent 10.0 lbs/ton of sulfuric acid produced SO₂ emission limit at 62-296.402(1)(b)2, approved in Florida’s original SIP submittal. *See* 37 FR 10842 (May 31, 1972). On July 3, 2017, EPA approved SIP revisions requiring updated continuous SO₂ emission limits for three SAPs at Mosaic Fertilizer’s Riverview facility (Mosaic Riverview): EU 004 (#7 SAP), EU 005 (#8 SAP), and EU 006 (#9 SAP). *See* 82 FR 30749 (July 3, 2017). Two of the SAPs, EU 004 (#7 SAP) and EU 005 (#8 SAP), began operation before January 18, 1972, and are therefore defined in Florida’s SIP as “existing emission units” even though they have been reconstructed such that the NSPS at 40 CFR part 60, subpart H applies. Consequently, these

SAPs at Mosaic Riverview are still subject to the less stringent SO₂ emission limit of 10.0 lbs/ton of sulfuric acid produced at 62-296.402(1)(b)2 as well as the NSPS limit of 4.0 lbs/ton of sulfuric acid produced, which is equivalent to the SIP emission limit in Rule 62-296.402(2)(b). The limit across all three SAPs, transmitted to EPA in an April 3, 2015, SIP revision and approved in the July 3, 2017, final action is significantly more stringent than the 10.0 lbs/ton of sulfuric acid produced limit. Table 8 provides additional information on how the updated 2017-approved emission limits are as stringent as the existing SIP limit proposed for removal. The updated 2017-approved source-specific emission limits for EU 004 and EU 005 are also continuous, applying during periods of SSM, and were also shown to provide for attainment of the 1-hour SO₂ NAAQS.

The less stringent limit of 29.0 lbs/ton of sulfuric acid produced at former 62-296.402(1)(a)2 has only applied to one source, Occidental Chemical Company, which is now Nutrien White Springs.²⁶ See 40 FR 49328 (October 22, 1975). However, the only active SAPs at this facility are EU 066 (SAP E) and EU 067 (SAP F), which are not “existing emissions units” under Florida’s definition at 62-210.200, and the State notes that they are subject to the emission limit of 4.0 lbs/ton of sulfuric acid produced in the SIP. Therefore, this higher SO₂ emission limit is not applicable to any emission units in the State, and there are no emissions impacts from removing it.

The remaining SAPs – EU6 at the Mosaic Riverview, the three units at Mosaic Fertilizer, Bartow facility (Mosaic Bartow), and the five units at Mosaic Fertilizer, New Wales facility (Mosaic New Wales) – are all subject to the emission limit at 62-296.402(2)(b) of 4.0 lbs/ton of sulfuric acid produced. FDEP notes in its September 20, 2022, submittal that the source-specific longer-term average emission limits for the 11 SAPs across three facilities were more stringent than the SIP emission limits in Rule 62-296.402 because they provided for attainment of the 1-

²⁶ See additional source historical information at https://frs-public.epa.gov/ords/frs_public2/fii_query_dtl.disp_program_facility?p_registry_id=110000588640.

hour SO₂ NAAQS. Additionally, Tables 6 through 8 compare the source-specific SIP emission limits approved by EPA into the SIP in previous actions to the Rule 62-296.402 emission limits. Across all facilities, the total annual emissions allowed under the source-specific SIP emission limits are significantly less than what is allowed under Rule 62-296.402. Additionally, the hourly and production-based emission limits compare favorably, and Table 9 shows that the source-specific emission limits are lower than the production-based limits would be if expressed as hourly limits, and lower than the equivalency ratios in Table 1 used for determining limits that are comparably stringent to the Rule 62-296.402(2)(b) limit. Finally, the hourly limits are continuous, whereas the existing Rule limits proposed for removal only apply during steady-state operation, exempting periods of SSM.

Table 6. Mosaic Bartow Comparison of Existing Rule and Source-Specific Emission Limits

Emission Unit	Sulfuric Acid Capacity (tpd)	Current Production-Based SIP Limit ^a			Approved Source-Specific SIP Limit ^b		
		SO ₂ Limit (lbs/ton acid produced) [3-hr avg]	Combined Calculated SO ₂ Hourly Emissions (lbs/hr) [3-hr avg]	Combined Maximum Annual SO ₂ Emissions (tpy)	Combined Calculated SO ₂ Production Emissions (lbs/ton) [24-hr avg]	Combined Hourly SO ₂ Limit (lbs/hr) [24-hr avg]	Combined Maximum SO ₂ Emissions (tpy)
012 (No. 4 SAP)	2,600	4	1,300	5,694	3.38	1,100	4,818
032 (No. 5 SAP)	2,600	4					
033 (No. 6 SAP)	2,600	4					

^a Rule 62-296.402(2)(b).

^b Permit No. 1050046-050-AC. See 85 FR 9666 (February 2, 2017).

Table 7. Mosaic New Wales Comparison of Existing Rule and Source-Specific Emission Limits

Emission Unit	Sulfuric Acid Capacity (tpd)	Current Production-Based SIP Limit ^a			Approved Source-Specific SIP Limit ^b		
		SO ₂ Limit (lbs/ton acid produced) [3-hr avg]	Combined Calculated SO ₂ Hourly Emissions (lbs/hr) [3-hr avg]	Combined Maximum Annual SO ₂ Emissions (tpy)	Combined Calculated SO ₂ Production Emissions (lbs/ton) [24-hr avg]	Combined Hourly SO ₂ Limit (lbs/hr) [24-hr avg]	Combined Maximum Annual SO ₂ Emissions (tpy)
002 (No. 1 SAP)	3,400	4	2,667	11,680	1.63	1,090	4,774
003 (No. 2 SAP)	3,400	4					

004 (No. 3 SAP)	3,400	4					
042 (No. 4 SAP)	2,900	4					
043 (No. 5 SAP)	2,900	4					

^a Rule 62-296.402(2)(b).

^b Permit No. 1050059-106-AC. *See* 85 FR 9666 (February 2, 2020).

Table 8. Mosaic Riverview Comparison of Existing Rule and Source-Specific Emission Limits

Emission Unit	Sulfuric Acid Capacity (tpd)	Current Production-Based SIP Limit			Approved Source-Specific SIP Limit ^a		
		SO ₂ Limit (lbs/ton acid produced) [3-hr avg]	Combined Calculated SO ₂ Hourly Emissions (lbs/hr) [3-hr avg]	Combined Maximum Annual SO ₂ Emissions (tpy)	Combined Calculated SO ₂ Production Emissions (lbs/ton) [24-hr avg]	Combined Hourly SO ₂ Limit (lbs/hr) [24-hr avg]	Combined Maximum Annual SO ₂ Emissions (tpy)
4 (No. 7 SAP)	3,200	10 ^b	3,025	13,250	1.48	575	2,518
5 (No. 8 SAP)	2,700	10 ^b					
6 (No. 6 SAP)	3,400	4 ^c					

^a Permit No. 0570008-080-AC. *See* 82 FR 30749 (July 3, 2017).

^b Rule 62-296.402(1)(b)2.

^c Rule 62-296.402(2)(b).

Table 9. Ratio of Existing Source-Specific and Production-Based Emission Limits for Mosaic Bartow, New Wales, and Riverview Facilities

Facility	Calculated Ratio of Facility-Wide Source-Specific Limits to Rule Limits
Mosaic Bartow	0.846
Mosaic New Wales	0.409
Mosaic Riverview Units EU4-EU5	0.148
Mosaic Riverview Unit EU6	0.371

Regarding these 11 SAPs, EPA has already approved continuous hourly emission limits for these facilities into the SIP. EPA is not reopening those underlying actions to approve the source-specific, continuous emission limits into the SIP. EPA instead has evaluated the removal of the historical production-based limits in Rule 62-296.402 from the SIP considering the requirements of CAA section 110(l). Given the SIP-approved hourly limits apply at all times,

the limits are more stringent for periods of SSM than the Rule limits which do not apply during these periods. Furthermore, EPA is proposing to find that these source-specific emission limits are consistent with the 2015 SSM Policy and help FDEP achieve consistency with the 2015 SSM SIP Action across its SIP.

The comparison of hourly and production-based emission limits shows that the source-specific limits are more stringent. Additionally, the actual ratios of the 24-hour average source-specific emission limits to the respective 3-hour average emission limits under Rule 62-296.402 presented in Table 9 are much lower than any equivalency ratios determined for similar sources via Florida's methodology to determine appropriate equivalency ratios presented in Table 1. This means that the 24-hour limits established to be comparably stringent to modeled CEVs are more stringent than would be calculated to determine longer-term average limits that are comparably stringent to the Rule 62-296.402 limits. Therefore, emissions are not expected to increase as a result of removing the existing Rule production-based emission limits.

Additionally, EPA notes that these units remain subject to the 3-hour average emission limit of 4.0 lbs/ton of sulfuric acid produced covering steady-state operation pursuant to 40 CFR part 60, subpart H. Thus, the 3-hour average allowable emissions applicable to steady-state (non-SSM) operation will not be relaxed, even with the removal of the Rule 62-296.402 3-hour emission limits.

As explained in this section, the previously SIP-approved 24-hour SO₂ emission limits for SAPs at Mosaic Bartow, Mosaic New Wales, and Mosaic Riverview are more stringent than the emission limits in Rule 62-296.402. Because these facilities have existing SIP-approved emission limits that are more stringent than the Rule 62-296.402 limits, EPA proposes to remove the emission limits in Rule 62-296.402 from the SIP.

vii. Ascend Pensacola, Emissions Unit 042, NAP

Construction Permit 0330040-076-AC, issued to Ascend Pensacola on September 20, 2022, imposes a new longer-term NO_x emission limit, expressed as NO₂, of 2.6 lbs/ton of nitric

acid produced, based on a rolling 720-hour average. The permit also specifies NO_x emissions testing and monitoring requirements, emissions calculation methods, recordkeeping, and recording requirements applicable to the Nitric Acid Plant (EU 042) at Ascend Pensacola. By permit, the conditions became effective January 1, 2023. Florida's Supplemental SSM SIP Revision requests that EPA incorporate this emissions limit and associated monitoring, recordkeeping, and reporting requirements into the SIP.

The new longer-term NO_x emission limit is in addition to the NSPS, Subpart G, NO_x emission limit, expressed as NO₂, of 3.0 lbs/ton of 100 percent nitric acid produced, based on a 3-hour average excluding periods of SSM, and a maximum allowable annual NO_x emission limit of 285 tons of NO_x per year based on a 365-day rolling total as determined by CEMS data and stack gas flow rate. Florida's Supplemental SSM SIP Revision requests that EPA incorporate into the SIP the 3.0 lbs/ton of 100 percent nitric acid produced limit that excludes periods of SSM. Florida did not request incorporation of the annual limit of 285 tons NO_x per year. This would mean that the only change to what applies during non-SSM periods of operation is that there is now an additional limit that applies over a longer-term averaging period.

The NAP at this facility is equipped with a NO_x CEMS. Data from the facility's NO_x CEMS were used to develop both a 30-day:1-hour equivalency ratio of 0.950 and a 30-day:3-hour equivalency ratio of 0.958. However, the State used an equivalency ratio of 0.867, which FDEP and Ascend Pensacola agreed upon, in developing the new longer-term NO_x production-based limit of 2.6 lbs/ton (720-hour average) to provide "reasonable assurance that the [longer-term NO_x] emission limit reflected a highly controlled emission limiting process operating continuously." As another point of comparison, equivalent hourly emissions were determined by multiplying the capacity of the NAPs by the Rule 62-296.408 and source-specific production-based limits to determine the maximum hourly emissions permitted. Comparison of emission limits based on the Rule 62-296.408 NO_x emission limit and the proposed new longer-term NO_x emission limit are shown in Table 10.

Table 10. Ascend Pensacola, Comparison of Existing Rule and Proposed Source-Specific Emission Limits

Emission Unit	Nitric Acid Capacity (tpd)	Current SIP Limit ^a			Proposed Source-Specific SIP Limit ^b		
		NO _x Limit (lbs/ton acid produced) [3-hr avg]	Calculated Hourly NO _x Emissions (lbs/hr) [3-hr avg]	Maximum Annual NO _x Emissions (tpy)	NO _x Limit (lbs/ton acid produced) [720-hr]	Calculated Hourly NO _x Emissions (lbs/hr) [720-hr avg]	Maximum Annual NO _x Emissions (tpy)
042	1,500	3	187.5	821	2.60	162.6	712

^a Rule 62-296.408(2).

^b Permit No. 0330040-076-AC. Based on an equivalency ratio of 0.867 agreed upon by FDEP and Ascend. Permit 0330040-076-AC specifies the averaging period of 720 hours which is equivalent to 30 days.

Regarding the NAP at Ascend Pensacola, EPA has evaluated the incorporation of the steady-state source-specific limit and the new longer-term average continuous limit against removal of the historical limit in Rule 62-296.408(2) from the SIP considering the requirements of CAA section 110(l).

In its submission, FDEP completed a reasonable analysis, utilizing a methodology similar to the methodology outlined in the SO₂ Nonattainment Guidance, for developing a longer-term production-based NO_x emission limit, applicable at all times during operation, for the Ascend Pensacola NAP, that is comparable in stringency to the Rule 62-296.408(2) NO_x emission limit in Florida's SIP. The methodology used to calculate the equivalency ratios is similar to the SO₂ Nonattainment Guidance; however, in addition to the substituting the Rule 62-296.408(2) NO_x emission limits for the CEV, calculation of these equivalency ratios further differ from the SO₂ Nonattainment Guidance as the equivalency ratios were calculated as the quotient of the 98th percentile of the longer-term average emissions and the 98th percentile of the short-term average emissions instead of the 99th percentiles, to better align with the form of the 2010 1-hour NO₂ NAAQS.²⁷ The modified methodology is not a significant change since the equivalency ratio of 0.867 that FDEP and Ascend agreed upon is more conservative than both the 30-day:1-hour equivalency ratio of 0.950 and the 30-day:3-hour equivalency ratio of 0.958. Therefore, the

²⁷ <https://www.epa.gov/no2-pollution/timeline-nitrogen-dioxide-no2-national-ambient-air-quality-standards-naaqs>.

proposed longer-term NO_x emission limit, expressed as NO₂, of 2.6 lbs/ton nitric acid produced on a 720-hour average (i.e., 30-day average) is also more stringent than emission limits that would result from the application of the 30-day:1-hour or the 30-day:3-hour equivalency ratios. Additionally, the proposed longer-term NO_x emission limit applies at all times during operation, including periods of SSM.

Given the proposed source-specific hourly limit applies at all times, it is more stringent for periods of SSM than the Rule limit which does not apply during these periods. Furthermore, EPA is proposing to find that the source-specific emission limit is consistent with the 2015 SSM Policy and helps FDEP achieve consistency with the 2015 SSM SIP Action across its SIP. Table 10 shows that the new longer-term average source-specific limit is comparably stringent to the existing Rule emission limit. Florida selected a 720-hour average source-specific emission limit that is more stringent than one calculated using the ratios in Table 2 (162.6 lbs/hr versus 179.1 lbs/hr).²⁸ Additionally, emissions will not increase as a result of removing the existing Rule 62-296.408 production-based emission limit for non-SSM periods of operation because EPA is also proposing to approve the equivalent 3-hour average source-specific emission limit into the SIP.

As explained in this section, the proposed 720-hour (30-day) average NO_x emission limit for the NAP at Ascend Pensacola is at least as stringent as the emission limit in Rule 62-296.408(2), and EPA is also approving a 3-hour average limit applicable to steady-state periods that is equivalent to the limit in Rule 62-296.408(2). Because the facility will have permanent and federally enforceable SIP-approved emission limits that together are more stringent than the Rule 62-296.408 limit alone and will now have a limit that applies at all times, EPA proposes to remove the emission limit at Rule 62-296.408(2) from the SIP.

viii. Trademark Nitrogen, Emissions Unit 001, NAP

Construction Permit 0570025-016-AC, issued to the Trademark Nitrogen facility (Trademark Nitrogen) on September 20, 2022, imposes a longer-term NO_x emission limit,

²⁸ Or 2.6 lbs/ton of nitric acid produced versus 2.85 lbs/ton of nitric acid produced.

expressed as NO₂, of 2.6 lbs/ton of nitric acid produced, based on a rolling 30-day average. The permit also specifies NO_x emissions testing and monitoring requirements, emissions calculation methods, and recordkeeping and recording requirements applicable to the nitric acid plant (EU 001) at Trademark Nitrogen. By permit, the new conditions became effective January 1, 2023. The new longer-term 30-day NO_x emission limit is in addition to the applicable NSPS Subpart G NO_x emission limit of, expressed as NO₂, of 3.0 lbs/ton of 100 percent nitric acid produced, based on a 3-hour average excluding excludes periods of SSM. Florida's Supplemental SSM SIP Revision requests that EPA incorporate this emissions limit and associated monitoring, recordkeeping, and reporting requirements into the SIP. Florida also submits the 3.0 lbs/ton of 100 percent nitric acid produced limit that excludes periods of SSM and associated monitoring, recordkeeping, and reporting requirements for incorporation into the SIP. This would mean that the only change to what applies during non-SSM periods of operation is that there is now an additional limit that applies over a longer-term averaging period.

The Trademark Nitrogen NAP is equipped with a NO_x CEMS, however, the CEMS utilizes a circular chart for recording NO_x emissions data and, therefore, hourly data is not available for determining site-specific equivalency ratios for the Trademark Nitrogen NAP. However, the NAP at this facility and the NAP located at Ascend Pensacola use a closely related chemical process whereby ammonia is oxidized in the presence of a catalyst to form NO_x which is then converted to nitric acid by reaction with water and controlled via process conditions and selective catalytic reduction (SCR).²⁹ Due to the similar NO_x control processes and the unavailability of hourly data for the Trademark Nitrogen NAP, the new longer-term NO_x emission limit was calculated utilizing the equivalency ratio of 0.867 set for the Ascend

²⁹ EPA notes that the operating permits for Ascend Pensacola and Trademark Nitrogen, while not part of the SIP submission, each contain conditions that require operation of the SCR while the NAP is operating. *See* Permit No. 0330040-077-AV for Ascend, condition M.3, and Permit No. 0570025-015-AO, condition A.3, both available in the docket for this proposed action.

Pensacola facility, as discussed in the previous section II.B.5.vii. Comparison of the current SIP NO_x emission limit and the proposed source-specific NO_x emission limit is shown in Table 11.

Table 11. Trademark Nitrogen, Comparison of Existing Rule and Proposed Source-Specific Emission Limits

Emission Unit	Nitric Acid Capacity (tpd)	Current SIP Limit ^a			Proposed Source-Specific SIP Limit ^b		
		NO _x Limit (lbs/ton acid produced) [3-hr avg]	Calculated NO _x Hourly Emissions (lbs/hr) [3-hr avg]	Maximum Annual NO _x Emissions (tpy)	NO _x Limit (lbs/ton acid produced) [30-d avg]	Calculated NO _x Hourly Emissions (lbs/hr) [30-d avg]	Maximum Annual NO _x Emissions (tpy)
001	150	3	18.8	82.1	2.60	16.3	71.2

^a Rule 62-296.408(2).

^b Permit No. 0570025-016-AC. Based on an equivalency ratio of 0.867.

Regarding the NAP at Trademark Nitrogen, EPA has evaluated the incorporation of the steady-state source-specific limit and the new longer-term average continuous limit against removal of the historical limit in Rule 62-296.408(2) from the SIP considering the requirements of CAA section 110(l).

In its submission, FDEP completed a reasonable analysis, utilizing a methodology similar to the methodology outlined in the SO₂ Nonattainment Guidance, for developing a longer-term 30-day NO_x emission limit, applicable at all times during operation, for the Ascend Pensacola NAP, which was then applied to the Trademark Nitrogen facility as a similar source. As noted previously, the Trademark Nitrogen NAP does not have readily available digitized CEMS data. EPA also notes that annual NO_x potential emissions from the Trademark Nitrogen NAP, at 71 tpy, are an order of magnitude less than the Ascend Pensacola NAP, at 712 tpy, as can be seen in Tables 10 and 11. Therefore, EPA believes this approach to utilizing the CEMS data of a similar source to establish a longer-term average emission limit, in the absence of other information, is appropriate.

EPA is proposing to find that the resultant emission limit is comparable in stringency to the Rule 62-296.408(2) NO_x emission limit in Florida's SIP. The methodology used to calculate the equivalency ratios, and selection of the equivalency ratio, are detailed in sections II.B.5.ii and

II.B.5.vii of this NPRM. Additionally, the proposed longer-term NO_x emission limit is based on operation of the nitric acid plant at Trademark Nitrogen at the maximum permitted hourly throughput rate and is applicable at all times during operation, including periods of SSM.

Given that the proposed source-specific hourly limit applies at all times, it is more stringent for periods of SSM than the Rule limit, which does not apply during these periods. Furthermore, the source-specific emission limit is consistent with the 2015 SSM Policy and helps FDEP achieve consistency with the 2015 SSM SIP Action across its SIP. Table 11 shows that the new source-specific limit is comparably stringent to the existing Rule emission limit. Florida selected a 30-day average source-specific emission limit that is more stringent than one calculated using the ratios in Table 2 (16.3 lbs/hr versus 17.9 lbs/hr).³⁰ Additionally, emissions will not increase as a result of removing the existing Rule 62-296.408 emission limit for non-SSM periods of operation because EPA is also proposing to approve the equivalent 3-hour average source-specific emission limit into the SIP.

As explained above, the proposed 30-day average NO_x emission limit for the NAP at Trademark Nitrogen is at least as stringent as the emission limits in Rule 62-296.408(2). Because the facility will have a permanent and federally enforceable SIP-approved emission limit that is comparably stringent to the Rule limit and applies at all times, EPA proposes to remove the emission limit at Rule 62-296.408(2) from the SIP.

III. Proposed Actions

EPA is proposing to approve Florida's Excess Emissions Rule SIP Revision consisting of revisions to Rule Section 62-210.700, F.A.C. – Excess Emissions. The revisions include 1) deletion of Rule 62-210.700(4), F.A.C., with the addition of equivalent language to Rules 62-210.700(1) and (2), F.A.C.; 2) amendment of Rule 62-210.700(3), F.A.C., to clarify and restate the visible emissions and PM limits applicable during boiler cleaning (soot blowing) and load changes; 3) addition of Rule 62-210.700(6), which states that Rules 62-210.700(1) and (2) shall

³⁰ Or 2.6 lbs/ton of nitric acid produced versus 2.85 lbs/ton of nitric acid produced.

not apply after May 22, 2018, to either emission limits or unit-specific emission limits that have been incorporated into Florida's SIP; and 4) addition of Rule 62-210.700(7), which states that after October 23, 2016, Rules 62-210.700(1) and (2), F.A.C., shall not apply to new permit-specific emission limits established pursuant to Florida's PSD and NNSR regulations (Rule 62-212.400 and 62-210.500, F.A.C.). EPA proposes to find that Florida's Excess Emissions Rule SIP Revision is consistent with CAA requirements and adequately addresses the specific deficiencies that EPA identified in the 2015 SSM SIP Action with respect to the Florida SIP.

Additionally, EPA is proposing to approve Florida's Supplemental SSM SIP Revision consisting of SSM-related revisions to Rule 62-296.405, F.A.C., *Fossil Fuel Steam Generators with More than 250 Million Btu Per Hour Heat Input*, and Rule 62-296.570, F.A.C., *Reasonably Available Control Technology [RACT] – Requirements for Major VOC- and NO_x-Emitting Facilities*; removal of the sulfur dioxide emission limit in Rule 62-296.402, F.A.C. *Sulfuric Acid Plants*; and removal of the nitrogen oxides emission limit in Rule 62-296.408, F.A.C., *Nitric Acid Plants*. EPA is also proposing to approve into Florida's SIP source-specific SO₂ and NO_x emission limits and construction permit conditions for five SO₂ emissions units and two NO_x emissions units. EPA proposes to find that Florida's Supplemental SSM SIP Revision is consistent with CAA requirements and adequately addresses the additional regulations identified by the State as problematic. EPA is not reopening the 2015 SIP call and is taking comments only on whether the SIP revisions are consistent with CAA requirements and whether they address the substantial inadequacy in the specific Florida SIP provisions identified in the 2015 SIP call.

IV. Incorporation by Reference

In this document, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, and as discussed in sections I through III of this preamble, EPA is proposing to incorporate by reference Florida Rule 62-210.700, F.A.C., entitled "Excess Emissions," state effective October 23, 2016,

which set a schedule by which the exemptions from applicable emission limits for startups, shutdowns, and malfunctions would be removed. EPA is also proposing to incorporate by reference the following Florida Rules: 62-296.402, F.A.C., “Sulfuric Acid Plants,” removing specific emission limits from the Florida SIP, state effective June 23, 2022, except for 62-296.402(1), 62-296.402(2)(a)2., 62-296.402(2)(b)2., and 62-296.402(3)(b); 62-296.405, F.A.C., “Fossil Fuel Steam Generators with More Than 250 Million Btu Per Hour Heat Input,” revising monitoring requirements and clarifying applicability, state effective June 23, 2022; 62-296.408, F.A.C., “Nitric Acid Plants,” removing specific emission limits, state effective November 23, 1994, except for 62-296.408(2); and 62-296.570, F.A.C., “Reasonably Available Control Technology [RACT] – Requirements for Major VOC- and NO_x-Emitting Facilities,” removing an exemption from RACT requirements during startups, shutdowns, and malfunctions, state effective June 23, 2022. Additionally, EPA is proposing to incorporate by reference into Florida’s SIP the specified new operating parameters, SO₂ emission caps, compliance monitoring, recordkeeping and reporting requirements for emission units EU 066 (SAP E) and EU 067 (SAP F) at Nutrien White Springs (Permit No. 0470002-132-AC),³¹ EU 004 (SAP 10) and EU 005 (SAP 11) at Mosaic South Pierce (Permit No. 1050055-037-AC),³² and EU 004 at TECO-Polk (Permit No. 1050233-050-AC).³³ The SO₂ emission standards specified in each permit are the basis for the removal of other SO₂ emission limits in the SIP. Finally, EPA is proposing to incorporate by reference into Florida’s SIP the specified, new operating parameters, NO_x emission caps, compliance monitoring, recordkeeping and reporting requirements for

³¹ Specifically, EPA is proposing to incorporate by reference into Florida’s SIP Specific Conditions 3 through 6 from Permit No. 0470002-132-AC issued to White Springs Agricultural Chemicals, Inc., Suwanee River / Swift Creek Complex by FDEP, state effective September 22, 2022.

³² Specifically, EPA is proposing to incorporate by reference into Florida’s SIP Specific Conditions 4 through 7 from Permit No. 1050055-037-AC issued to Mosaic Fertilizer, LLC, South Pierce Facility by FDEP, state effective September 22, 2022.

³³ Specifically, EPA is proposing to incorporate by reference into Florida’s SIP Specific Conditions 1 through 4 from Permit No. 1050233-050-AC issued to Tampa Electric Company Polk Power Station by FDEP, state effective September 21, 2022.

emission units EU 042 at Ascend Pensacola (Permit No. 0330040-076-AC),³⁴ and EU 001 at Trademark Nitrogen (Permit No. 0570025-016-AC).³⁵ The NO_x emission standards specified in each permit are the basis for the removal of other NO_x emission limits in the SIP. EPA has made, and will continue to make, these materials generally available through www.regulations.gov and at the EPA Region 4 office (please contact the person identified in the **For Further Information Contact** section of this preamble for more information).

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. These actions merely propose to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, these proposed actions:

- Are not significant regulatory actions subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Are certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

³⁴ Specifically, EPA is proposing to incorporate by reference into Florida's SIP Specific Conditions 1 through 6 from Permit No. 0330040-076-AC issued to Ascend Performance Materials Operations LLC Pensacola Plant by FDEP, state effective September 20, 2022. EPA notes that the condition numbers are misidentified on pages 43–44 of the Supplemental SSM SIP Revision as 1 and 5 through 9; in the permit, those conditions are numbered 1 through 6, as shown on pages 98–99 of the Supplemental SSM SIP Revision.

³⁵ Specifically, EPA is proposing to incorporate by reference into Florida's SIP Specific Conditions 1 and 5 through 9 from Permit No. 0570025-016-AC issued to Trademark Nitrogen, Inc., by FDEP, state effective September 20, 2022.

- Do not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Are not economically significant regulatory actions based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Are not significant regulatory actions subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- Are not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA.

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, these actions do not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

Executive Order 12898 (Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, Feb. 16, 1994) directs Federal agencies to identify and address “disproportionately high and adverse human health or environmental effects” of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. EPA defines environmental justice (EJ) as “the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.” EPA further defines the term fair treatment to mean that “no group of people should bear a disproportionate burden of environmental harms and risks,

including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies.”

FDEP did not evaluate EJ considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. EPA did not perform an EJ analysis and did not consider EJ in these proposed actions. Due to the nature of the actions being proposed here, these proposed actions are expected to have a neutral to positive impact on the air quality of the affected area. Consideration of EJ is not required as part of these proposed actions, and there is no information in the record inconsistent with the stated goal of E.O. 12898 of achieving EJ for people of color, low-income populations, and Indigenous peoples.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon Monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: April 25, 2023.

Daniel Blackman,

Regional Administrator,

Region 4.

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